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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding the  
Implementation of the Suspension of Direct  
Access Pursuant to Assembly Bill 1x and Decision  
01-09-060

Rulemaking 02-01-011

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC  
COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, AND  
SOUTHERN CALIFORNIA EDISON COMPANY ON THE  
PROPOSED DECISION OF ALJ PULSIFER REGARDING  
ALLOCATION OF 80 MW EXEMPTION**

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April 30, 2007

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OF THE STATE OF CALIFORNIA

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Pursuant to Rule 14.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) file these joint reply comments on the March 30, 2007, Proposed Decision of ALJ Pulsifer (PD) entitled *Opinion Granting Petition of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company for Modification of Decision 06-07-030.*

The utilities have received comments on the PD filed by the California Municipal Utilities Association (CMUA), the Hercules Municipal Utility (Hercules), and the Merced Irrigation District and the Modesto Irrigation District (the Districts).

The utilities support the PD, and encourage the Commission to adopt it.

**I. THE PD PROPERLY LIMITS MDNL ELIGIBLE FOR A PORTION OF THE 80 MW OF EXEMPTIONS TO A ONE TIME ELECTION OF WHETHER TO TAKE AN EXEMPTION “TO PROVIDE AN ORDERLY PROCESS FOR RATIONING LIMITED EXEMPTIONS”**

The PD addresses the petition for modification filed jointly by PG&E, SDG&E, and SCE to establish protocols to allocate 80 MW of exemptions from the responsibility for the costs of

Department of Water Resources (DWR) power among new municipal departing load (MDNL).

(PD, p. 1.) The petition was filed in response to ordering paragraph 21 of Decision (D.)06-07-030. (PD, p. 1.)

As proposed by the utilities, and consistent with the discussions leading up to the proposed protocols presented in the utilities' joint petition, the PD would adopt a "one time" election for MDNL eligible for a portion of the 80 MW of exemptions from DWR cost responsibility. (PD, p. 3.)

The PD goes on to explain why this option is "one time," stating

. . . the customer should not be allowed repeatedly to switch back and forth in exemption status depending on whether or not the exemption produces a lower overall bill. The process for applying an exemption was not intended to be used as a gaming technique to avoid cost responsibility based on fluctuating market conditions. Such gaming of the rules would not be fair to other customers or consistent with the intent merely to provide an orderly process for rationing limited exemptions. Once a customer makes the election, the customer should be held responsible for the results of that election, irrespective of how costs and market conditions may change over time. (PD, p. 6.)

Hercules argues that the PD should be modified so that a "new customer" moving into a premise could switch the already made election regarding DWR costs. (Hercules Comments, p. 2-4.) However, as the PD notes, there is no basis for having the applicability of the exemption be dependent upon whether or not there has been a turnover in the occupancy of a particular premise. (PD., p. 7.) Allowing the additional choice for "new customers" moving into a premise hampers the ability to "provide an orderly process for rationing the limited exemptions." Further, as the utilities pointed out in their petition, allowing such changes in exemptions would further complicate administering the 80 MW cap and the billing process for these customers. (See, PD, p. 3.)

Therefore, Hercules' request that the PD be modified to provide for additional exemption elections, beyond the one-time election already provided for in the PD, should be rejected.

**II. THE PD PROPERLY DECLINES TO MODIFY THE ALREADY ADOPTED CRITERIA FOR TRANSFERRED MUNICIPAL DEPARTING LOAD RESPONSIBILITY FOR DWR POWER COSTS**

Neither the petition itself, nor the directive in D.06-07-030 that precipitated its filing, has anything to do with transferred municipal departing load. Not surprisingly, the PD declines to modify the already adopted principles for determining when transferred municipal departing load is responsible for the costs of DWR power. As the PD notes, “[t]he principles previously applied concerning departing customers' exemption from the DWR power charge have not changed. Accordingly, we decline to grant other departing load customers the option to change their status regarding DWR power charge exemption.” (PD, pp. 5-6.)

None of the previous decisions establishing municipal departing load responsibility for DWR power creates an “option” for departing load customers to choose whether or not to be exempt from responsibility for the costs of DWR power. The rationale for exemptions created by those decisions is based on the circumstances surrounding particular categories of departing load customers. The exemption is not a matter of personal choice, which would allow it to be used as a “gaming technique to avoid cost responsibility based on fluctuating market conditions.”

Nonetheless, CMUA, the Districts, and Hercules all argue in their comments that the Commission should now abandon the considerations that led it to exempt (at the urging of municipal parties) substantial amounts of transferred municipal departing load from responsibility for the costs of DWR power. CMUA, the Districts, and Hercules all argue that transferred municipal departing load should now be given the option to “forego” the exemption that they fought for and received. There is absolutely no rationale for this position.

The PD properly focuses on the protocols to ration 80 MW of exemptions from the cost

of DWR power that previous decisions have granted to MDNL, and on the utilities' offer, made in the spirit of compromise, to allow this limited subset of MDNL a one time option regarding the exemption from DWR power costs. (PD, pp. 2-3.) The PD properly rejects the effort by the commenting parties to use the protocols for allocation of the 80 MW of DWR exemptions as a pretext to obtain a one time exemption election for transferred municipal departing load, an effort which is inconsistent with previous decisions which did not create such an option.

PG&E, SDG&E and SCE respectfully request that the PD be adopted without modification.

Respectfully Submitted,

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April 30, 2007

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, California 94105.

On the 30<sup>th</sup> day of April, 2007, I served a true copy of:

**REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY, SAN DIEGO  
GAS & ELECTRIC COMPANY, AND SOUTHERN CALIFORNIA EDISON COMPANY  
ON THE PROPOSED DECISION OF ALJ PULSIFER REGARDING ALLOCATION OF  
80 MW EXEMPTION**

by electronic mail to all parties to R.02-01-011 providing an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the 30th day of April, 2007.

| \_\_\_\_\_ /s/

MARTIE L. WAY

**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA;  
ELECTRONIC SERVICE LIST**  
**R0201011**

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Commissioner Assigned: Michael R. Peevey on January 2, 2007; ALJ Assigned: Thomas R. Pulsifer on May 1, 2002

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Commissioner Assigned: Michael R. Peevey on January 2, 2007; ALJ Assigned: Thomas R. Pulsifer on May 1, 2002

## CPUC DOCKET NO. R0201011 CPUC 04-10-07

Total number of addressees: 207

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